

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DOMINIC LAWSON

Claimant

VS.

ALBERTSONS

Respondent

Self-Insured

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Docket No. 256,954

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on August 24, 2000.

ISSUES

The Administrative Law Judge denied claimant's request for benefits. The sole issue on appeal is whether claimant's injury arose out of and in the course of his employment for respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the Order denying benefits should be affirmed.

Claimant testified he injured his back lifting at work on June 2, 2000. According to claimant, he reported the injury to his supervisor, Chad Martin, and was allowed to go home. Claimant testified he walked slowly after the injury. Respondent denied claimant's request for medical treatment and terminated his employment.

Respondent's witnesses provided evidence inconsistent with claimant's testimony. Claimant's supervisor, Chad Martin, testified that claimant told him he was sick from an allergic reaction to taking aspirin, but he did not recall claimant mentioning a back injury. Hunter Alexander, Chad Martin's supervisor, gave permission for claimant to go home. He testified Chad Martin had told him claimant was sick. Mr. Alexander saw claimant run to the door when his ride arrived. According to Rodney Craft, the grocery manager, claimant was terminated for absenteeism and did not report a back injury until after he was terminated.

The Administrative Law Judge had the opportunity to observe the claimant and three other employees testify. The ALJ did not believe claimant's version of the events and denied benefits. The Appeals Board generally defers to the ALJ's evaluation of credibility for witnesses who have testified live before the ALJ. The Board's review of the record suggests it is reasonable to rely on the ALJ's determination of credibility in this case and doing so the Board concludes the Order should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on August 24, 2000, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October 2000.

BOARD MEMBER

c: Dennis L. Phelps, Wichita, KS
Eric K. Kuhn, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director